

REMARKS

Reconsideration of the Final Office Action of April 13, 2006 is respectfully requested.

Enclosed is a one-month Extension of Time with requisite Small Entity Fee.

In the Office Action, Claim 34 was objected to for depending from a canceled claim. In the prior amendment, the subject matter of Claim 17 was incorporated into Claim 18.

Accordingly, Claim 34 has been amended to depend from Claim 18 rather than the canceled Claim 17, so as to follow the change in Claim 17.

In the Office Action Claim 27 (and its dependents – 28 and 35) – was (were) rejected under 35 U.S.C. § 112, second paragraph relative to an issue as to antecedent basis for “said transmission”. The presently presented Claim 27 is respectfully submitted not to have the antecedent issue raised and thus withdrawal of the rejection is respectfully requested.

In the Office Action, Claims 1,7-11, 15 were rejected as being considered by the Examiner to be anticipated by Klinkel. There was further indicated that the “Examiner is confident that “ Applicant will agree that the compliance means (79) adequately adjusts the seal compression jaw (43) with respect to the contact member (40)”. This assertion is respectfully submitted by Applicant not to be the case. In other words, the spring 79 in Klinkel does not perform a compliance function as featured in the present application. For example, spring 79 in no way functions to absorb and/or accommodate misalignments and the like between the two contacting jaws. Spring 79 of Klinkel performs only a spring return function and does not provide a compliance function to the linkage assembly it operates to return.

This deficiency in Klinkel can be seen in a review of the linkage assembly in which spring 79 is provided. There is a first rod combination that includes roller 82 pivotally connected to a solid rod 80 that extends to solid jaw 43 and a pivot pin inserted to support cross member

102. Thus relative to the linkage line between cam roller 82 and the rigid connection at the interface of jaw 43 and the rod support, there is no compliance absorption means. Also, when cam 62 pushes rod forward toward support wall 57, the spring 79 compresses while the linkage bars such as 97, 101, 99, 100 and 102 operate to rotate bar 99 in counterclockwise fashion relative to pivot point 104, so as to draw solid shafts 101 to the left in Figure 7 to bring jaw 40 also to the left and into contact with moving jaw 43. Again, however, the linkage system is fixed relative to the adjustment of its components, and thus there is no compliance absorption function provided by spring 79 (i.e., it has no effect on the interrelationship among the components in the linkage system which have fixed length bars and fixed relative pivot points). Instead spring 79 merely function to keep the roller 82 in contact with the cam via the force exerted on cross bar 102, the pivot pin 105, and the rod 80 receiving the pin as shown in Figures 7 and 8. In addition, as described in the prior response, the stripper elements of spring 89 in no way provides an end sealer compliance capability as one of ordinary skill in the art would properly interpret “compliance means” to be directed at under the disclosed and claimed invention.

Claim 13 was rejected separately from the above-noted claim based on Klinkel under a 35 U.S.C. § 103 heading, but with reference made to 35 U.S.C. § 102(b) in the rejection. Based on the body of the rejection, it has been assumed the rejection is based on 35 U.S.C. §103. (although the discussion to follow shows the deficiencies in Klinkel, in either instance). That is, there is indicated that Applicant has not disclosed that the difference in spring constants solves any stated problems or is for any particular purpose.

It is respectfully submitted that the problem solved by the two different spring constants usage and the benefits are set forth in the application on, for example, page 46, lines 10-18 as further clarified in the discussion below. This description is relative to Figure 9I and the

description clarifies that the two spring constants provide improved functioning relative to the two different functions of keeping the push rod assembly in transmission contact with the transmission and providing for jaw compliance for improved end seal formation (e.g., an enhanced capability for providing proper end sealer contact with the film being sealed despite a myriad of contact variations that can arise in the end sealer assembly operation). In other words, the referenced disclosure on page 46 describes different spring constants relative to the different functions performed by the two springs. There is disclosed on page 46 providing a lighter spring constant for the spring that is used to help the cam follower maintain contact with the cam while the other higher spring constant is used in helping in seal compliance relative to the compressing jaws. Accordingly, the different spring functions provide the advantage of providing a beneficial degree of rigidity in the compression of the jaws environment, as a spring that is too springy or flexible in nature would degrade the desired positioning and desired compression levels to achieve a good seal while the lower spring constant spring is well suited for the purpose of maintaining the transmission component at a desired contact location (the less compression the better as there is not needed a great deal for maintaining positioning and there is avoided wear and lessened the potential for breakage relative to that different environment of use). Thus not only has there been shown to be a purpose in the providing of the two different spring constants in the noted environments, there is a benefit in having a two spring constants arrangement that is not appreciated in the prior art.

There is also indicated in the present Office Action “one of ordinary skill in the art at the time of the invention would have found it obvious to use springs of different spring constants as the first and second springs provide different functions in the end sealer shifting assembly.” This obviousness rejection is respectfully submitted not to present a prime face case of obviousness

as there is lacking any reference to a disclosure of any reference as to both the source for the obviousness assertion, as well as where there is a suggestion to implement different spring constants in the context of the claimed invention.

Independent Claim 15 includes a similar compliance means feature as described for Claim 1 and further includes the feature of the jaw being adjustably connected to an end of the push rod which is not the case of the rigid, direct attachment of the rod and jaw arrangement in Klinkel. There is also indicated in the response to arguments that the stripper plates are considered to seal and constitute seal compression jaws. This assertion is respectfully traversed relative to how one of ordinary skill in the art would interpret the claimed subject matter. This can be seen even in the Klinkel, et al. reference itself relative to the stripper and seal jaws. For example, in column 8, lines 60 to 62 there is evidence in Klinkel itself how one of ordinary skill in the art would interpret “seal”. That is, as shown in the relevant art, a “seal” is not considered to be inclusive of the stripper B function of compressing the goods prior to jaws 40 and 43 contacting to form the bag seal. Accordingly, withdrawal of the rejection is respectfully requested as being an interpretation that is not in accord with how one of ordinary skill in the art would interpret the claim language.

Accordingly, it is respectfully submitted that Claims 1, 7-11, 13 and 15 are patentability distinct relative to Klinkel, et al.

Claims 1, 2, 12, 16, 20, 21, 29 30, and 33 stand rejected under 35 USC § 102(b) as being considered anticipated by Fowler. Amongst these rejected claims 1 and 29 represent independent claims and thus the discussion focuses on how these claims are considered to patentably distinguish over Fowler. The Examiner’s “Response to Arguments” indicates that, like the stripper plates of Klinkel, the grippers of Fowler are considered to prevent passage of the

contents held within the bag, and are thus considered to meet the dictionary definition of “seal” presented in the Office Action. For similar reasons set out above for the reliance on the strippers as the end seal compression jaws having the compliance means of the presently claimed invention, the assertion that one of ordinary skill in the art would interpret the grippers as the end sealers is respectfully traversed. Even a reading of the Fowler reference (just like the Klinkel reference) reveals that those skilled in the art reference “seal” relative to the fusion formed in the film material being subjected to sealing to form the final enclosure state. In this regard, reference is made to column 7, lines 40 to 45 of Fowler which describe the sealing process and read as follows:

When these wires receive an electrical impulse they produce sufficient heat to fuse the film at the wires. The filament 174 produces the bottom seal 104 in Fig. 1. The filament 176 produces the bottom seal 104 in Fig. 1. The filament 178 and 179 produce seals 116 and 117 shown in Fig. 1...

Accordingly, it is respectfully submitted that the reliance on the grippers in the office action as the end sealer associated with the compliance means is respectfully traversed.

The Final Office Action also introduces anew an alternate interpretation wherein reliance is placed on the seal pad body 171 and spring set-up 214. However the arrangement representing the compliance means as set up in the environment of claim 1 and the push rod arrangement and adjustable end seal compression jaw association with that push rod in claim 29 is respectfully submitted not to be disclosed or suggested in Fowler in the context of those claims. Fowler features a non-compromising drive structure featuring the rigid plates 190 supported by the rigid backing plate 186 and the rigid post arrangement extending off of the frame structure 183. Thus the to and fro driving assembly is not in a compliant relationship with the end seal jaw structure.

This necessitates the need for a great deal of additional structure and complexity as seen from Fowler and as compared to the claimed invention of claims 1 and 29.

In the Office Action claims 22, 24-28, 34 and 35 were rejected as being considered obvious based on Fowler in view of Klinkel. This obviousness rejection is also respectfully traversed. Claim 22 describes the driving engagement between said rod assembly and said jaw as including a rod extension slidably received by said jaw as well as a compliance bias spring associated with the jaw and the cam. This claimed arrangement not disclosed or suggested as seen from the discussion relative to Fowler and Klinkel above wherein there is lacking a rod associated with the driving rod assembly that is slidably received within the jaw being driven by that rod. Claim 25 also describes a jaw which receives a rod of said rod assembly driven by the cam (Claim 25 having been amended to improve the antecedent reference).

Also with reference to claims 34 and 35 (as well as Claim 33), these claims describe first and second concentric nested springs which would be read by one of ordinary skill in the art as the first and second springs being in a concentric relationship relative to their nested relationship, which relationship is not disclosed or suggested in either of the relied upon references.

Based on the foregoing it is respectfully submitted that all claim stand in condition for allowance and confirmation of the same is earnestly solicited (including claim 30 which is presumably still withdrawn but is subject to rejoinder in view of its dependency on claim 1).

If for any reason the current claim set is not deemed in immediate condition for allowance the Examiner is invited to telephone the undersigned to further discuss the case.

AMENDMENT/RESPONSE TO FINAL OA
U.S. Appln. No. 10/776,453

If any additional fees are due in connection with the filing of this Amendment, such as fees under 37 C.F.R. §§1.16 or 1.17, please charge the fees to Deposit Account No. 02-4300; Order No. 034017R015

Respectfully submitted,

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